REVIEW COMMITTEE ON INDIAN AND METIS
ADOPTIONS AND PLACEMENTS

FILE REVIEW REPORT

ASSOCIATE CHIEF JUDGE E.C. KIMELMAN
Chairman

April, 1984
Second Printing — December, 1984

MANITOBA

REVIEW COMMITTEE ON INDIAN AND METIS
ADOPTIONS AND PLACEMENTS
Judge E.C. Kimelman, Chairman

April, 1984

FILE REVIEW REPORT

TO: The Honourable Muriel Smith
Minister of Community Services and Corrections

Madam Minister:

Your Chairman has previously submitted two reports - the Interim Report and the Group Home Report. This third report to you is the result of a personal study of the files of the 93 native children who were placed out of province in 1981 for purposes of adoption.

This report, along with the others, identifies the need to build accountability into the child welfare system. The restructuring of the system which has been initiated in this province is supported by the findings set out herein.

Nothing in this report should be construed as a condemnation of the many competent and devoted individuals involved in the agencies which deliver service. The observations, in my opinion, are evidence of problems within the system which can be corrected.

This report is to be viewed as a part of the final report which will address specific issues.

Respectfully submitted,

E. Kimelman

Associate Chief Judge E.C. Kimelman
Chairman

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A REPORT OF THE REVIEW OF THE FILES OF NATIVE CHILDREN PLACED OUT OF THE PROVINCE IN 1981

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F O R E W O R D

The presentations made to this Committee by representatives of native organizations consistently expressed the concern that the child welfare system was insensitive to the needs and aspirations of the aboriginal people of Manitoba. It is submitted that the study of the adoption files maintained by child caring agencies not only confirms this allegation but demonstrates that the child caring agencies have in a routine and systematic manner disregarded the cultural future of native people by unjustifiably placing their children in homes outside of their culture.

Adoption placements were aimed at providing children with security and stability in a family of their own. The goal was honourable, the results deplorable.

It is submitted that the cause of this regrettable situation is that governments, administrators, agency boards and staff have been so focused on their good intentions that they have failed to examine what was actually happening to the children and to their natural and adoptive families.

Faced with public criticism, the entire system has so exhausted its energy defending long established philosophies, policies and practises that there has been no ability to recognize the need to change.

A REPORT OF THE REVIEW OF THE FILES OF NATIVE CHILDREN PLACED OUT OF THE PROVINCE IN 1981

BACKGROUND

In March, 1982, Associate Chief Judge Edwin C. Kimelman of the Provincial Judges Court (Family Division) was appointed by the Manitoba government to examine the issue of adoption and foster placement of children of aboriginal descent. Of particular concern, and motivating the enquiry, was the fact that a substantial number of native children had been placed outside the Province of Manitoba for purposes of adoption.

An Interim Report was presented to the Minister in May, 1983. That report, in addition to outlining the procedures that were being followed by the Review Committee and indicating the areas to be given thorough examination in the final report, recommended to the government that the moratorium that had been placed on out of province adoptions in early 1982 remain

in place and in full effect. That Interim Report also specifically recommended a procedure for the handling of cases involving aboriginal children to ensure that local communities were given every opportunity to find an appropriate home that was culturally and linguistically compatible.

The Interim Report indicated the Chairman's continuing conviction that changes in the child welfare system would be necessary to assure community sensitivity. The need for "community-based" services was noted as a mechanism for ensuring that services would be continually responsive to existing and changing needs of communities.

The government has now taken steps toward the establishment of six agencies to serve the City of Winnipeg. Such agencies with small boards representative of the people of the local community is a beginning which, if coupled with systemic controls designed to ensure accountability, will overcome many of the problems inherent in the present system. Similar attention

is required throughout the province to guarantee that services, whether administered by private agencies or by the provincial regional offices, will be designed to best meet the needs of the province's children.

The Interim Report also indicated the Chairman's intention to examine and recommend on the establishment of a Child Protector's office which would control *inter alia* child advocacy and child wardship review functions, to give consideration to alternative types of guardianship and wardship orders, to recommend a child abuse response system, as well as to discuss the applicability to Canada of the U.S. Indian Child Welfare Act and Tribal Court system.

The Chairman's mandate was expanded when the Minister requested a review of group homes. Completed in October, 1983, the Group Home Review produced more questions than answers.

The lack of an information system came sharply into focus when it was found that while the system could reveal what

children were residing in group homes today, it could not identify how long these particular children had been in care, what patterns of care had previously been experienced by the children or what the plans were for the children up to and beyond the time they reached the age of majority.

The Group Home Review further reinforced the Chairman's view that for child welfare services the smaller the administrative unit the more responsible and responsive is the service to the individual needs of families and children.

This report is the third to be prepared for the Minister. It covers a specific area of activity of the Chairman - the review of the actual files of the native children who were placed outside of Manitoba in 1981.

STUDY INTENT

The original intent of the file review was to verify or refute the allegation of native organizations that the child care agencies* of the province had made little, if any, effort to locate native adoptive homes in Manitoba before making the decision to place children out of the province.

The decision to review selected 1981 files was an arbitrary one. It was recognized that a random sample of cases would not be appropriate. To review the files of all adoption placements in any given year demanded time that was not available. The year 1981 was decided upon because that was the most recent year which would reflect "normal" agency practise.

* Throughout this report, the term "agency" applies to all child care structures whether private agency or regional office of the Department of Community Services and Corrections.

The 1981 records of the office of the Director of Child Welfare were examined to identify the cases reported of out of province adoption placements. From that master list, the cases involving "native" children were selected. Here "native" means children identified by the placing agency as Registered Indian, non-Treaty Indian or Metis.

The office of the Director of Child Welfare wrote to each of the agencies which had reported placing children out of province in 1981 listing the cases of native children and requesting that the files be made available for the Chairman's examination.

Thus the files of 93 children were identified and reviewed by the Chairman.

The limitations of this study were recognized from the outset. Workers do not necessarily record every single action they take on behalf of the children for whom they are responsible. Agencies are asked by the central directorate to keep information in various forms and on various areas of concern and data on pre-placement acti-

vity had not been previously highlighted for attention.

In the Interim Report, the Chairman had concurred with the position of the Indian people that cultural genocide had occurred.

The child caring agencies took offence at that statement both publicly and privately. The Chairman was assured by all agencies that the placement of children out of province only occurred after every Manitoba resource had been explored and exhausted and after every possible alternative option had been examined.

The Chairman initiated this phase of the study with the expectation that the files would prove the agencies' statement to be correct.

Given the cultural, legal and institutional factors which influence the single issue which prompted the study, it is difficult, if not misleading, to limit one's perspective by isolating that issue or these findings from their entire con-

text. The Minister is, therefore, cautioned to view this report as only a part of the final report which will be completed by the Chairman.

PROCEDURES

This file review was actually initiated in the spring of 1983 but was interrupted by the government requested group home study. The file reviews were resumed in December and completed in January, 1984.

When the "closed ward files" were studied at the first agency, it became clear that these files would not contain the information sought. It was pointed out to the Chairman that the exploration of child care resources amongst extended family members and in the local community would usually occur before the child was made a permanent ward. Such information would be contained in the "family file".

Thereafter, the agencies provided the Chairman with both the "closed ward files" and the "family files". The files were

examined in the respective agency offices by the Chairman and his Assistant. In two instances, it was necessary to ask that the files be brought to another location - Swan River files to Dauphin and Thompson files to Winnipeg - because of the Chairman's schedule. This removal of the files from the security of the placing agency was done with some trepidation but every step was taken to ensure that the files were returned to safekeeping as promptly as possible. Files were physically returned to the agency representative who had delivered same to the Chairman.

MAINTENANCE OF FILES

The Child Welfare Act requires that an agency maintain the adoption files and that these files be kept safe and secure. S 92(1) provides:

Preservation of records.

92 (1) All records and documents in the office of a child caring agency related to the granting of an order of adoption shall be confidential and

following the granting of the order shall be maintained in a separate file and secured in a safe depository by the child caring agency.

Section 99 (8) outlines the documents which must be presented in court when an order for adoption is sought by an agency. This section provides:

Documents to be filed in support of application.

99 (8) Before granting an order of adoption the judge shall require to be filed in court

(a) the required consents to the adoption;

(b) a copy of the agreement mentioned in subsection (4);

(c) the birth certificate or registration of the live birth of the child;

(d) the order of permanent guardianship or the voluntary surrender of guardianship agreement where guardianship is held by the director of a society;

(e) the family and developmental history of the child identified by his adoptive name and birth registration number only;

(f) a summary of the study of the adoptive parents;

(g) the report and recommendation of the child caring agency;

(h) the marriage certificate of the adopting parents except where there is only one applicant who is unmarried;

(i) the authorization of the child caring agency where it authorized the extension or reduction of the time for the making of the application;

(j) nisi and absolute decrees of divorce where the applicant is divorced; and

(k) the death certificate where the application is by a surviving spouse or where a previous marriage of an applicant was terminated by the death of a spouse.

The file of the above documents is maintained by the Court. The office of the Director of Child Welfare maintains a duplicate of the above plus various other documents related to the child and that file is closed and secured when the order for adoption is granted. The agency file on the child, which is the file examined by the Chairman for this review, should contain all relevant documents, reports and correspondence from the time the child becomes a ward of the agency until the adoption is finalized. At that point, the file is to be placed in a secure depository.

The Child and Family Services Directorate has developed two documents. The "Standards for Adoption Services" was

developed in 1979 and the "Adoption Procedures Manual" is updated on a regular basis. Using the Child Welfare League of America Adoption Standards as a base, these documents outline procedures to conform to Manitoba legislated requirements and to ensure the provision of responsible adoption services.

The directorate has also issued directions to regional offices which provide child care services related specifically to the disposition of files of permanent wards who have been legally adopted.

That document reads, in part:

A copy of the following material should be retained on the closed ward file

a. family history

b. health records, medical and psychiatric assessments, educational records, etc.

*c. any pertinent case recording, including foster home experiences, names and addresses of foster parents, closing summary**

d. legal documents and certificates

1. birth certificate

2. committal order and transfer of guardianship if applicable or

3. voluntary surrender and affidavit if any

4. verification of treaty Indian status

**The closing summary of a ward who has been legally adopted should state*

1. *the date of adoption placement*
2. *the name of agency in whose adoptive home the child was placed*
3. *the adoptive home file number (of the adoptive parent's agency) if available*
4. *particulars of the Adoption Order*
   a. *Date*
   b. *Court*
   c. *Judge*
   d. *New given names of the child*
5. *date Indian Affairs notified of adoption of Treaty Status ward*

N.B. *Before closing ward file be sure to delete identification of adoptive parents by erasing, snow painting or destruction of immaterial notes and correspondence.*

That document also identifies what material should be "disposed of after the adoption has been finalized". By "disposed of" the document does not necessarily mean "destroyed", but rather identifies where certain material should be filed rather than left in the closed ward file.

One assumes that the private agencies have developed policy for the content and format of closed ward files which would

parallel the directive which was sent to regional offices.

STATISTICS

The Child Welfare Act requires that the state intervene in the lives of families and children when it appears that a child is in "need of protection" as that term is defined in Section 16 of the Act.

Child in need of protection.

16 In this Act, a child in need of protection means

(a) a child who is an orphan or who has been abandoned or deserted by his parents and
(i) who is not being properly cared for by anyone, or
(ii) who with the consent of the person in whose charge he is, is brought before a judge to be dealt with under this Act;

(b) a child where the parent or person in whose charge he is cannot, by reason of disease, infirmity, misfortune, incompetence, imprisonment, or any combination thereof, care properly for him;

(c) a child whose life, physical or mental health, or morals may be endangered by the conduct of the person in whose charge he is;

(d) a child who is beyond the control of his parents or person in whose charge he is;

(e) a child whose behaviour, condition, environment or association is injurious to himself or others;

(e.1) a child who refuses or is unable to provide properly and adequately for the health and welfare needs of herself or her child;

(f) a child born to parents not married to each other whose mother is unable or unwilling to care for him;

(g) a child where the parent or person in whose charge he is neglects or refuses to provide or obtain proper medical, surgical, or other remedial care or treatment necessary for health and well-being of the child, or refuses to permit such care or treatment to be supplied to the child when it is recommended by a duly qualified medical practitioner;

(h) a child whose emotional or mental development is endangered because of emotional rejection or deprivation of affection by the person in whose charge the child is;

(i) a child under the age of 12 years who is left unattended for an unreasonable length of time without making reasonable provision for the supervision and safety of the child;

(j) a child subjected to abuse; or

(k) a child who is the subject of activities in violation of sections 97 or 128.2.

ADMISSIONS TO SUPERVISON OF AGENCY OR REGION BY MAJOR REASON FOR MONTHS OF JUNE, JULY AND AUGUST, 1982

REASONS FOR ADMISSIONS TO SUPERVISION	TOTALS NUMBER	PERCENT
Protective Guardianship		
a) abandoned/deserted	123	15
b) inadequate care	150	19
c) child endangered by parent or guardian	66	8
d) child beyond control of parents	149	18
e) child injurious to self or others	9	1
f) child of unmarried parents	20	3
g) unprovided health treatment	2	--
Voluntary Surrender of Guardianship	47	6
Temporary Contract Placement	92	11
J. D. Committal	7	1
M. R. Committal	6	1
Transfer in for purposes other than adoption	33	4
Transfer in for purposes of adoption	44	5
Other	61	8
TOTAL	809	100%

The above statistics can be viewed as follows:

Children under supervision because of action or inaction of parent or guardian	45%
Children under supervision because of their own behaviour or condition	21%
Supervision of children transferred to agency with consent of parent or guardian	17%
Transfer from another agency, therefore previously counted under one of above categories	9%
Other	8%
	100%

PERCENT OF WARDS PLACED FOR ADOPTION IN 1981 BY AGENCY

AGENCY	TOTAL PERMANENT WARDS*	PLACED FOR ADOPTION**	PERCENT
Private Agencies			
CAS of Central	135	12	9
CAS of Eastern	175	31	18
CAS of Western	297	48	16
CAS of Winnipeg	1130	218	19
Jewish Child and Family Services	17	---	--
Regions			
Eastman	83	1	1
Interlake	120	26	22
Norman	89	32	36
Parklands	179	8	4
Thompson	230	7	3
Winnipeg	119	24	20
TOTALS:	2574	407	16

Sources:

* Statistical Bulletin, October to December, 1981, Dept. of Community Services & Corrections, Page 7. Sum of Wards, Wards in Adoption Placements and Other Wards.

** 1981 Annual Report, Dept. of Community Services & Corrections, Page 67.

At the end of 1981, there were 2,574 children who were permanent wards of child care agencies in Manitoba. During 1981, 407 children were placed for adoption or 16% of the children in care.

CHILDREN PLACED OUT OF PROVINCE FOR ADOPTION IN 1981 BY AGENCY

	TOTAL PLACED FOR ADOPTION*	NUMBER PLACED OUT OF PROVINCE FOR ADOPTION**	PERCENT PLACED OUT OF PROVINCE
Private Agencies			
CAS of Central	12	4	33
CAS of Eastern	31	4	13
CAS of Western	48	18	37
CAS of Winnipeg	218	64	29
Jewish Child and Family Services	---	--	--
Regions			
Eastman	1	--	--
Interlake	26	1	4
Norman	8	--	--
Parklands	32	14	44
Thompson	7	2	29
Winnipeg	24	1	4
TOTALS:	407	108	26

Sources: * Annual Report, 1981, Dept. of Community Services and Corrections, Page 67.

** Child & Family Services Directorate

Of the 407 children placed for adoption in 1981, 108 or 26% were placed outside of Manitoba. (Updated figures provided by the Child and Family Services Directorate indicates a total of 437 children placed in 1981 which would change the out of province adoption percentage to 25%.)

Each month the child care agencies of Manitoba report certain statistics to the Child and Family Services Directorate. Those reports indicate the ethnicity of the child, its sex, age, size of the sibling group placed and the location of the adoptive home.

In those reports, the agency also indicates whether, in the agency's opinion, the child has any disability. The terms used to describe such disabilities are "short term correctible", "long term correctible", "correctible slow development", "permanent disability" or "mentally retarded".

In describing ethnicity, the statistics use the terms R. I., Indian Other, Metis and Non-Native.

A publication of Indian and Northern Affairs Canada entitled "Adoption and the Indian Child" contains the following definitions of terms:

REGISTERED INDIAN (R.I.)

This is a person recorded as an Indian in the Indian Register. Most registered Indians are members of an Indian band, but some who belong to no band, are placed on a General List. Individuals are entitled to be registered by virtue of their descent from registered Indians. Thus an adopted child whose natural mother was entitled to be registered is usually entitled to be registered as an Indian.

STATUS INDIAN

A term which means the same as registered Indian.

NON-STATUS INDIAN

A person of Indian ancestry who is not registered as an Indian. There are various reasons why persons of Indian ancestry may not be registered as Indians. For example, they may be persons or descendants of persons who relinquished their rights to be registered through enfranchisement, or who lost their entitlement through marriage to non-Indians.

TREATY INDIAN

A member of a band of Indians which was a signatory to a Treaty with the Government of Canada. Approximately 50 percent of registered Indians in Canada are Treaty Indians. However, in the prairie provinces, where most come under treaties, the term Treaty Indian is often used instead of registered Indian or status Indian.

NON-TREATY INDIAN

A person who is registered as an Indian on the General List, or as a member of an Indian band that is not a signatory to a Treaty. In the prairie provinces the term is generally used to refer to a person of Indian ancestry who is not entitled to be registered as an Indian under the Indian Act.

ENFRANCHISED INDIAN

A person who has been declared enfranchised by Order in Council and is no longer entitled to be registered as an Indian.

METIS

A person of mixed ancestry, usually French and Indian, who is not entitled to be registered as an Indian under the provisions of the Indian Act. However, the Metis Population Betterment Act of 1940 defined Metis as a person of mixed white and Indian blood and having not less than one-quarter Indian blood. In some instances today it is taken to mean any person of mixed white and Indian ancestry, regardless of blood percentage.

Thus, in examining the statistics, the term R.I. means Registered Indian, Status Indian or Treaty Indian. The term Indian Other includes Non-Status Indian, Non-Treaty Indian or Enfranchised Indian. The term Metis is less precise but would include persons who define themselves as Metis or persons perceived to be Metis by the placing agency.

STATISTICS OF CHILDREN PLACED
OUT OF PROVINCE IN 1981*

AGENCY	TOTAL	ETHNICITY				SEX		AGE GROUP					SIZE OF SIBLING GROUP PLACED				PLACEMENT		SPECIAL NEED
		R. I.	Indian Other	Metis	Non-Native	M	F	< 2	2-4	5-10	11-13	> 14	1	2	3	4	Can.	U. S.	
Private Agencies																			
CAS of Central	4	4				1	3		1	1	2			2				4	3
CAS of Eastern	5	4			1	3	2			5			3	1			1	4	3
CAS of Western	18	17			1	7	11		9	7	2		4	2	2	1	6	12	11
CAS of Winnipeg	63	26	4	22	11	28	35	7*	23	24	7	2	25	10	2	3	33	30	29
Regions																			
Interlake	1				1	1					1		1				1		1
Parklands	14	1		12	1	7	7		2	6	6		9	1	1		7	7	9
Thompson	2			2		1	1		1	1			2				2		nil
Winnipeg	1			1			1					1	1				1		1
TOTALS:	108	52	4	37	15	48	60	7	36	44	18	3	45	16	5	4	51	57	57
PERCENTAGE:	100	48	4	34	14	44	56	6	33	41	17	3	42				47	53	53

*All 7 were placed singly
5 were under 1 year of age
1 was placed with relative
3 were native
4 were non-native

5 had problems described as permanent

*Source: Monthly reports submitted by agencies to Child and Family Services Directorate

It should be mentioned here that in the course of the file reviews which will be discussed in the next section, certain errors were identified. The above table reflects the corrected statistics.

The table provides us with the following basic facts:

OBSERVATION 1

- 53% of the children placed outside of Manitoba were placed in the United States
- 86% of the children placed outside of Manitoba were of native ancestry
- 15 children placed outside of Manitoba were not native
- 55% of the children placed outside of Manitoba were female
- 94% of the children placed outside of Manitoba were over 2 years of age
- 7 children under the age of 2 were placed outside of Manitoba and of these, 5 were less than one year old. Four of these children were non-native. All 7 children were placed singly.
- 42% of the children placed outside of Manitoba were placed alone

- 56 children were identified by the placing agency as being "special needs" children. Only 5 of these children were described as having a "non-correctible" condition.

At the end of 1981, the Statistical Bulletin indicates that there were 145 adoption homes in Manitoba which had been approved but were not in use as well as 1377 adoption applications which were awaiting study.

PLACEMENT SELECTION PROCEDURES

The Child Welfare Act reads, in part:

> *Stability of applicants.*
> *99 (2) Upon receiving an application under subsection (1), a child caring agency shall ascertain the suitability of the applicants as adoptive parents and upon being satisfied that they are suitable, it shall forward to the director the relevant particulars respecting the applicants and the director shall enter the names and particulars of the applicants in a central registry to be maintained and kept by him.*
>
> *Placement subject to approval of director.*
> *99 (3) A child caring agency may place a child in the home of the applicants for the adoption of a child whose names have been entered in the central registry mentioned in subsection (2); but if the child is 2 years of age or younger it shall not be placed in a home for adoption unless the director has approved the placement.*

The intent of this legislation is to ensure that all adoption applicants have equal access to available infants regardless of the applicant's geographic location within the province.

A memo dated October 10, 1975 contained in the Adoption Procedures Manual outlines the process of adoption placements.

For children over the age of two, the agency may select a possible adoptive home for applicants within their own geographic area.

Children under two years of age are matched to the most appropriate approved adoption home listed with the Registry. Given equally suitable applicants, the application dated earliest is given priority.

If no suitable home is readily identified, the children are listed in the Manitoba Adoption Bulletin which is circulated to all child care agencies in the province every two weeks unless there are no new listings.

When a child is listed in the Bulletin for the first time, detailed information is included as well as known information about the physical, hereditary, medical and educational characteristics of the natural parents. In subsequent editions of the Bulletin, the child's name, sex, age, agency, racial origin and date of guardianship are given. The Bulletin also identifies the date of listing with the Central Adoption Registry, the National Adoption Desk, the date of featuring in the "Child Who Waits" column and other pertinent comments.

If no placements result from the Bulletin distribution, the agency, after a period of one month, may list the child with the National Adoption Desk.

OBSERVATION 2

Referrals of children to out of country adoption agencies may be made only after the child or family has been registered with the National Adoption Desk for a period of two months.

The decision to register a child out of province does not rest solely with the placing agency. Such registrations must be

channelled through the Child and Family Services Directorate. It is theoretically possible for an agency to circumvent the Directorate office and deal directly with an out of province agency. However, at the time an application is made for final adoption, the specific, written consent of the Manitoba Director of Child Welfare must be filed with the court having jurisdiction.

It is the policy of the directorate that an out of province search for an adoptive home can only be requested for older children, for sibling groups or for children described as "special needs" children.

REVIEW OF THE FILES

In 1981 there were 5 private agencies providing child care services and all but the Jewish Child and Family Services placed children out of province. Of the 6 regional offices of the Department of Community Services and Corrections providing child

care services, 4 regions placed children out of province.

The Chairman examined the closed ward files and the family files of the 93 children of aboriginal descent placed out of province in 1981.

OBSERVATION 3

The Chairman did not examine the files of the 15 non-native children placed out of province nor were the files of the 299 or more children placed for adoption in homes in Manitoba studied. Also not examined were the files of the some 2000 children who were permanent wards of agencies in 1981 and not placed for adoption.

The description of cases given in the succeeding sections vary. This can be accounted for by a number of factors. The dominant reason for the differences is that the files of agencies vary as to their content, order and basic accessibility of information. Another possible factor is the lapse of time between the initiation of this review and the conclusion. Finally, as the review progressed, certain additional information was sought in the files

which had not been looked for in files examined earlier.

Again, these files are those of children placed for adoption in 1981. Whether this reflects the first, second or fifth adoption placement for the child was not considered relevant to this particular study.

In describing the cases, certain facts are intentionally omitted such as the actual location of the placement, the specific ethnicity of the children, and the size of the sibling group to protect the confidentiality of child, parents and adopting families. It is only necessary to know that these are children of native descent placed outside of Manitoba either as a member of a sibling group or solely.

In some instances, facts are intentionally altered in the interests of confidentiality.

Case #1

This small sibling group was actually part of a larger sibling group. No information was available to indicate whether the resources of extended family or community had been explored or whether there had been any consideration given to keeping the total sibling group together. The children were not listed for out of province placement until a significant amount of time had lapsed after listing with the Manitoba Registry.

Case #2

A great deal of work was done with this family and with members of the extended family and community before the apprehension of this small sibling group. There were additional children in the family and if plans were considered to keep the total group together, that fact was not located on the file. A significant time elapsed after listing with the Manitoba Adoption registry before out of province placement was considered. Part of the reason for

the delay was to insure that the medical condition of one of the children was stabilized prior to adoption placement.

Case #3

Permanent guardianship was sought for this child with the consent of the mother because of medical problems. The agency explored the possibility of placement with the grandmother who was caring for other grandchildren. When efforts to locate a Manitoba home failed, the child was placed out of the province.

Case #4

This sibling group became permanent wards after extensive efforts to maintain the children in their own home failed. Another group of children from this same family had been placed previously and if any plan existed for uniting the children, it was not evident from the file. These children are described as having many problems. Resources in the extended family and the local community appear to have been investigated. When no Manitoba home could be identified, resources were explored outside the province.

Case #5

This child suffered severe neglect before coming to the attention of the agency. Efforts were made to provide support for the mother so that she could responsibly care for this child and her other children. There is no firm evidence of investigation of resources within the extended family or in the local community but such an approach is suggested. If a plan existed for keeping all the children together, it was not evident on the file. When no home could be located in Manitoba, a search for a home was made outside of Manitoba.

Case #6

The statistics show this as a small sibling group. Actually these children were placed out of province to be united with siblings that had been previously placed. The file does not indicate any effort to find a placement in the home community and there was no information evident to indicate whether such an investigation preceded the placement of the children previously placed.

Case #7

Although not placed in the same home, this child was placed in the same community where siblings had been previously placed. Again, the file does not indicate efforts to find a placement in the home community but such investigation could have taken place on behalf of the siblings.

Case #8

The agency had been involved with the parents of this small sibling group for some time. It is clear that helpful information had been provided to the family but there is little evidence of concrete services. There is also no indication of efforts to find alternate placement resources in the home community.

Case #9

Shown as a sole child, this is actually a member of a large sibling group. The file indicates that extended family members were contacted who were able to take some of the children. There was no information identified to indicate consideration of the option of keeping the total

unit together or of attempts to find other resources in the home community.

Case #10

Also shown as a sole child, this is actually a member of a large sibling group. There is no identifiable indication of any consideration of a plan to keep the children together or of efforts to find resources in the home community.

Case #11

This sibling group was placed together out of province. The file gives no indication of efforts to find placement resources with extended family or in the home community.

Case #12

The agency made significant efforts to locate possible placement resources in the local community for this sibling group before placing them together outside the province.

Case #13

This small sibling group was placed out of province with a family of native ancestry where another native sibling group had been previously placed. Prior to

seeking wardship of these children, the agency provided helpful information to the family about resources but there is no evidence of agency action to ensure that those resources were actually used. There is also no indication of efforts to find placement resources in the local community.

Case #14

Shown as a small sibling group, there was another child who had been placed previously. The agency had been active with this family for many years. The children had been wards of the agency for a number of years before being placed for adoption. There was no evidence to indicate that efforts had been made to find resources amongst extended family members or to reunite the sibling group.

Case #15

This child is listed statistically as a child alone. There are actually other siblings whom the mother had placed with her family in her home community. The record did not indicate that the agency made any enquiry in the home community to find resources before deciding to place the child out of province.

Case #16

In this case there were inconsistencies between the file and the Director's records. One was the location of the placement. Also the directorate report lists this child as having a disability whereas a file notation describes the child as healthy. The file reveals no attempts to locate resources amongst family members or in the home community.

Case #17

This child listed statistically as an only child is actually one of a sibling group. The file reveals no attempt to find resources in the home community nor amongst relatives. If there was a plan considered to keep the sibling group together, that was not evident from the file.

Case #18

Shown as a small sibling group, these children actually were members of a large family. The record indicates no effort to find placement resources amongst older siblings, extended family or in the home community.

Case #19

This sibling group was placed out of province for valid reasons, in the Chairman's opinion. The agency made an early decision to keep the children together and the placement plan was realistic and apparently well executed. A search for family or local community resources would not have been warranted in this case. This case is distinctive in that it involved child abuse and removal from the province was necessary to guarantee the safety of the children.

Case #20

A previous child of this mother had been placed by the agency. By the time the child was made a permanent ward, family resources had been exhausted and community resources were explored for possible placement. There seems to have been no consideration given to placing this child with the sibling placed earlier.

Case #21

A previous child of this mother had been placed by the agency. There does not appear to have been efforts to find exten-

ded family or resources in the home community. There is also no indication that placement with the other child was considered.

Case #22

This child's family had been known to the agency for a considerable time. Efforts to keep the family together had not been successful. The file reveals no attempts to locate extended family or community resources.

Case #23

Shown as a child alone, the child is actually a member of a large family which had been known to the agency for many years. When the child came into care, the family resources had already been exhausted. The file does not indicate any attempt to contact the community of origin of the mother. After being placed out of province, that adoption placement broke down and the child was placed in another home in the same community. The agency file reflects no discussion with that out of province agency regarding that second

placement of the child nor is there any indication that consideration was given to returning the child to Manitoba.

Case #24

This large sibling group became permanent wards after the placement resources of the extended family had been exhausted. Although the record shows that the mother maintained contact with her home community, the file does not indicate that the agency contacted the community to investigate possible placement resources. The agency's intent was to split this sibling group into two groups for placement purposes. It was the out of province adoptive family's decision to take the total group. The file does not reflect consideration of any other alternative to keep all the children together.

Case #25

Shown as a child alone, the child is actually a member of a large sibling group. This placement was initiated by an out of province agency seeking a child of a particular age and sex. There was no comment found on the file regarding alternate plans

for all the children nor is there any indication that local organizations were contacted for placement resources. The original placement broke down and the child was placed in another home in that out of province community. No notation was identified on file to indicate that consideration was given to returning the child to the province, of reuniting the sibling group or of options to keep the total unit together.

Case #26

This small sibling group was placed out of province only after there was an extensive investigation of possible placement resources within the extended family and in Manitoba. The decision was made early to keep the unit together. When the out of province placement broke down, the children were returned to Manitoba.

Case #27

Shown as a child alone, this is actually a member of a large sibling group. The file does not reveal any consideration of a plan to keep all the children together. The first adoption

placement broke down and the child was placed with another family in that out of province community. The file reveals no efforts to locate placement resources with extended family or in the home community.

Case #28

A previous child of the mother of this small sibling group had been placed by the mother with a relative. The record does not reveal any attempt by the agency to locate placement resources for these children amongst relatives or in the home community.

Case #29

A previous child of the mother of this small sibling group had been placed for adoption by the agency. The record contains no information that would justify an out province placement. The file shows no efforts to locate family resources for these children.

Case #30

This child was placed alone but is actually a member of a large sibling group. The family had been known to the agency for many years and no evidence was

apparent of concrete assistance being given to stabilize the family. The family's community of origin is identified but there is no indication of attempts to find resources with extended family or in the community.

Case #31

This large sibling group was placed together. There were other siblings as well. Again, the Director's statistical records and the agency file differ in the location of the placement. The files do not reveal efforts to provide concrete support to the family nor is there evidence of contact with extended family or home community for placement resources. There also does not appear to have been consideration of any alternate plan to keep the total sibling group together.

Case #32

Shown as a sole child, this is actually a member of a sibling group. The failure to contact the home community or extended family for a placement resource appears to have been a conscious action in this case. The record does indicate that

the agency agreed to inform the adoptive parents should other siblings come into care so that the group could be reunited.

Case #33

Shown as a small sibling group, these are actually children of a large sibling group. There is no indication on file of any consideration of a plan to keep the total sibling group together. After the first adoption placement broke down the children were placed with another family in the same out of province community with the consent of the agency. No effort is indicated on file to locate resources in the local community.

Case #34

Shown as a small sibling group, there were actually other children in the family who were placed elsewhere by the court. The file indicates no efforts to locate family or home community resources for these children.

Case #35

This small sibling group was placed without any apparent effort to find family or community resources. A child born

later to the mother was placed in the home community.

Case #36

This small sibling group is actually part of a large family. The file indicates no consideration of plans to keep the total unit together. There is no indication of any contact having been made in the home community.

Case #37

This child placed alone is one of a number of children of the mother. Each child was placed for adoption as an infant. The adoptive parents were of native descent. There is no indication of contact with the home community for possible resources.

Case #38

Statistically shown as a small sibling group, these are actually members of a large family group. The file shows no consideration of any plan to keep the total unit together nor is there any evidence of contact being made with the home community for placement resources.

Case #39

These children became wards when the resources of the extended family had been exhausted. There is no indication that contact was made with the home community for possible resources there.

Case #40

This child was placed out of province as an infant. There is no information on file to indicate that there were any special problems which would indicate that this child was "hard to place".

Case #41

These children were placed out of province without any apparent contact with the home community to investigate whether resources were available there.

Case #42

This child was listed in Manitoba for an extensive period before being placed. The file gives no indication of contact with extended family members or home community.

Case #43

This child was apparently listed for some time before being placed. There is no indication on file to indicate attempts to find resources in the local community.

Case #44

Shown as a small sibling group, these are actually part of a larger sibling group. The file does not indicate consideration of any plan to keep the total sibling group together. Local resources were located and used for these children but in the worker's opinion, a "more stimulating" atmosphere was required for these children.

Case #45

The statistics indicate this as the placement of a child alone. This child was actually placed in a home where siblings had been previously placed. The file did not indicate whether local resources had been explored prior to placement of the other children.

Case #46

This child had been in foster care for some time before an adoption placement

was attempted. The out of province placement broke down and the child was returned to foster care in the local community as a permanent plan for the child.

Case #47

The statistics show these as two sole children. They are actually siblings who were placed in separate homes in the same out of province community. The file reveals no special efforts to locate a resource in the home community nor any explanation of why the children were not placed together.

Case #48

There is a discrepancy between the file and the directorate statistics as to the location of the placement of this child. The file reveals no efforts to find resources in the local community.

Case #49

This sibling group was placed together. The file reveals no efforts to locate a placement resource in the home community.

Case #50

This child was a ward for some time before being placed for adoption. That placement broke down, the child was returned to the province and placed in a foster home as a permanent plan in the home community.

Case #51

This child had a number of health problems. The file does not indicate efforts to find a placement resource in the local community.

Case #52

The file indicated that substantial direct assistance had been given this family. Upon becoming a permanent ward, the file indicates that the child was listed simultaneously with the Central Adoption Registry and with the National Adoption Desk. No file note was identified to indicate that extended family or local community resources were sought for this child.

Case #53

This child had experienced an adoption breakdown. The placement in 1981 was to be united with a sibling that had previously been placed out of province.

Case #54

When this child became a permanent ward, the resources of the extended family had already been exhausted and the resources of the local community were not appropriate. The 1981 adoption placement broke down and the child was returned to the province.

OBSERVATION 4 **Summary**

The above 54 cases represent 93 children.

COMMENTS

Introduction

After the release of the Interim Report in May of 1983, the Chairman was sharply criticized, both publicly and privately, for having stated that the native people of Manitoba had been victims of cultural genocide.

It is necessary to clarify the Chairman's perception of the term:

> "If one native child has been placed out of province where there was no need for it, then cultural genocide has occurred."

Having now completed the review of the files of the native children placed out of province in 1981, the Chairman now states unequivocally that cultural genocide has been taking place in a systematic, routine manner.

The Chairman now repeats:

> "If one native child has been placed out of province where there was no need for it, then cultural genocide has occurred."

OBSERVATION 5

The placement of children out of province has not been the exception. The placement of children out of province has not been justified on the basis of age, sibling group size or special problems.

OBSERVATION 6

The placement of children out of province constituted a regular ongoing practise which took advantage of a readily available pool of adoptive parents.

The availability of that resource and the political and administrative acquiescence to this practise served to delay the development of Indian resources, prevented the development of specialized services in the province to respond to the changing needs of adoptees and adoptive parents and removed the necessity to study, examine and evaluate the actual situation.

If there was no acquiescence, there was at least condonation, direct or implied, to the systematic delivery of children beyond the boundaries of Manitoba with the subsequent culture and identity loss.

When the Indian residential schools were operating, children were forcibly removed from their homes for the duration of the academic year. The Chairman has been repeatedly informed that the children were punished if they used their own language, sang their own songs or told their own stories. But at least under that system the children knew who their parents were and they returned home for the summer months.

OBSERVATION 7

With the closing of the residential schools, rather than providing the resources on Reserves to build economic security and providing the services to support responsible parenting, society found it easier and cheaper to remove the children from their homes and apparently fill the market demand for children in Eastern Canada and the United States.

With the moratorium against out of province placements remaining in place and with the development of Indian child and family service agencies, a start has been made to correct the damage that has been done to the native people of our province.

OBSERVATION 8

The process cannot stop now. Steps that are taken to improve the system for native children will ensure a responsible system for all children.

The Files

When the Chairman attended at the agencies to review the files, the files had been prepared for physical examination. The Chairman, therefore, cannot comment on whether or not the files were kept "separate" and "secured in a safe depository", the requirements of the Child Welfare Act.

The files themselves left much to be desired. Documentation and correspondence were in other than chronological order, some correspondence torn, letters folded, giving the appearance of disarray and lack of organization. Only in one agency were files in a reasonably satisfactory condition, placed in separate file envelopes and sealed. Even in that agency the seals had been broken with no notation on file as to when the seals had been broken, by whom and by whose authority.

OBSERVATION 9

The condition of the files is relevant in that it affects the ability of any reviewer to obtain information from the file. The Chairman found the files at times to be almost totally incomprehensible. Undated handwritten notes were found. Correspondence, as previously stated, was not in chronological order. Requisite information was conspiculously absent. Years of agency involvement was found with only infrequent and erratic case summaries and, in some instances, no summaries were located.

The Chairman had anticipated that the files would contain an up to date or detailed closing summary of the case as required under the Child Welfare Act. It was expected that such a summary would describe how the agency had initially become involved with the family, what the perceived problems had been, what the agency did to ameliorate those problems and what precipitated the agency's decision to seek permanent wardship of the child. The Chairman anticipated that the summary would contain a description of the

options considered with reasons given for those options which were discarded. The Chairman expected there would be a typewritten summary of the court proceedings along with specific plans for the child should permanent wardship be granted. It was also anticipated that the summary would indicate efforts to find a Manitoba placement, some comment on why such efforts failed and the basis for the decision to seek an out of province resource. The Chairman anticipated that such summaries would have the signature of the worker and supervisor and, in the smaller agencies, the director as well.

Such was not the case. Summaries were done so infrequently as to cause positive comment to be made about the existence of a summary at all. The casual attitude to dealing with children reflects an inappropriate position and procedure.

OBSERVATION 10

In one agency - and it must be said that this is the agency with the orderly and sealed files - the files contained a brief note, readily available, which contained a list of the following dates:

Permanent wardship granted -
Listed with Manitoba Desk -
Distributed in Manitoba Bulletin -
Featured in "Child Who Waits" -
Listed with National Desk -
Placed -
Adoption Final -

This is impressive. However, as these notes were undated and unsigned and in view of the fact that the seal on the adoption file was broken prior to their examination by the Chairman, it is possible that these files were opened and the notes inserted after the Chairman indicated his intent to review the files.

For the final report, it is the intention of the Chairman to recommend areas for further research and examination. This will be done. But it will be important for researchers to recognize the realities of agency records. The research time will be a realistic cost factor which will have to be considered.

It was anticipated that the files would also show the degree of respect and empathy agencies have for their clients. It was not so found. Personal letters to parents or adoptive parents or to the National Adoption Desk were infrequently

located. Some agencies made use of form letters with handwritten insertions.

OBSERVATION 11

Again, the files themselves support the premise that in the field of child welfare, the smaller the administrative unit the more responsible appears to be the agency's attitude and actions. In the smaller agencies, all levels of the administration are apparently involved in major decisions. As the size of the agency increases, it appears that decisions are made at the worker level.

OBSERVATION 12

The Chairman makes no apology for any facts which may have been misinterpreted or missed. The files are simply not in a condition which would permit error free research or even allow for an accurate understanding of the process eventually culminating in final adoption.

In the past, professionals have defended the absence of information on files in the erroneous assumption that to document facts would be a breach of confidentiality. No such privilege exists. On the contrary, there is an obligation to accurately, concisely and professionally record in detail

any and all facts and observations that will be of benefit for the client - adult or child.

The Chairman searched in vain to find in at least one file some details indicating why approval had been given to the adoptive family over other applicants. Were there other applicants? Did the Executive Director give final approval? Why was there no indication of ongoing contact and no written report following placement prior to the decree absolute being granted? One is left with a feeling that inter-agency working relationships are carried out in an atmosphere of collegiality where no serious or relevant questions are raised and no major concerns identified. In the area of adoption, these casual procedures are clearly unsatisfactory.

OBSERVATION 13

These findings reinforce the Chairman's comments in the Interim Report regarding the need for systemic accountability. This will be discussed in detail in the final report. On completion of the examination of each file, the Chairman was left with the impression that those who contri-

buted to the file or who had responsibility for the file felt no need or pressure to be accountable since the files were subject to no scrutiny of any sort.

The Children

Children enter the system either at the request of parents or on the basis of suspected or alleged abuse or neglect. The issue of the types of guardianship orders required will be discussed at some length in the final report.

Today the court may grant an agency temporary guardianship of a child for a specific period of time or grant permanent guardianship. When the child becomes a permanent ward, parental rights and responsibilities terminate and the child is technically available for adoption.

The public tends to view the "adoptable" child as young and alone. The Winnipeg Free Press editorial on June 1, 1983, referred to "parentless children".

The children who were placed out of province were not "parentless" except in the strictly legal sense. They were children who had been removed from their parents, separated from their brothers and sisters and relatives, and ultimately shipped away to a totally different environment.

This raises a most serious question as to whether the imposition of strict standards of confidentiality are appropriate at all in these cases. Should not a child with memories of parents be permitted to maintain contact with the parents? Is it really appropriate for information about a child's placement to be withheld from parents? Should not sibling groups be permitted, even encouraged, to keep in touch with each other? Submissions made to the committee by those who experienced this loss would incidate that memories are not erased but merely suppressed for a time.

OBSERVATION 14

Repeatedly the Chairman has heard from children, now of adult age or in their late teens, who confirmed their

ongoing interest, desire and need to know of their biological parents. Such concerns were identified even when the surrogate parents were loved and praised.

At a special hearing, a woman addressed the Chairman - "All I want to know is whether my grandchild is alive?" Is that too much to ask?

The preceding sections illustrate how totally inadequate the statistics are in conveying the actual situation. The statistics show us the size of the "unit" that was placed. In at least 60% of the cases that unit size does not reflect the size of the family in which these children originated. It is important that information systems are developed in a way that will convey the actual facts so that the workers, agency boards and the community at large will know the extent of the separation trauma to which children are being subjected.

"Permanency Planning". That is what the agencies report to be doing. What they voice as their major focus is the philosophy that "every child is entitled

to a family of its own". So adoption placement has been the ultimate goal of agencies. A noble goal. A socially agreeable goal. BUT AT WHAT COST TO THE CHILDREN!

Following the imposition of the moratorium on out of province adoptions in the spring of 1982, the agencies publicly decried this interference with their adoption placement procedures. What are the facts?

In the name of being provided with a family of their own, children have been subjected to separation from their parents and separation from their siblings as well.

The children placed for adoption out of province ran a good chance of having that adoption break down prior to its becoming final or of having the adoption break down during the child's teenage years. Statistics would bear out this observation.

For the majority of children who become permanent wards, infants and young children excepted, there is only a remote hope of an adoption placement. For most of these children, the reality is that they

will be placed in a series of foster homes, group homes and institutions with the very real possibility of spending some of their adult years as residents of the province's correctional facilities.

OBSERVATION 15

Could the children's own families offer the children less than society has given them?

When a child is neglected or abused within its own family, the state can step in and remove that child for its own protection. Who protects the child when it is neglected or abused by the child welfare system? Who holds the system accountable?

If parents who voluntarily surrender custody of their children were aware of the facts, would they make the same decision? It became clear during the course of submissions made that parents who believed they were doing the proper thing by surrendering custody of their children, had no realization of the unsettled future which the children faced.

It begins to appear that for many children, adoption constitutes unpaid foster care lacking the benefits of supervi-

sion and monitoring.

Rather than being the rule, the placement of a child for adoption in "a family of its own" is the exception. Successful adoption placement at least for children of Indian descent, appears to be the result of chance rather than good planning.

No statistics are available, nor has the Chairman found any post adoption studies, to indicate the success or failure of present adoption placement procedures. What is available, however, is the ever increasing number of children coming before the courts on criminal matters who are the products of adoption breakdown, group home care or foster placement. These "adoption breakdown" candidates are appearing with greater frequency in the juvenile courts of this province.

The Agency

In almost all of the cases reviewed, the child caring agency had been involved with the families for a considerable period of time before permanent wardship was sought or secured. While not a focus of

the file review, certain observations can be made.

It was evident that alcohol and drug abuse were frequently apparent as causative factors in child neglect or abuse. It also seemed apparent that child caring agencies - at least in the cases reviewed - appear to have little success in altering such behaviour patterns. Research into treatment of substance abuse must continue. Agencies need to consider alternate means

OBSERVATION 16 of protecting children locked into such situations.

The Chairman recently attended public hearings of an Ontario Legislative Committee. The following statement was made - "People in this town have their children taken from them forever when what they really needed was a babysitter for Saturday night".

Removal of children from alcoholic parents need not be the only option for protecting children. Neighbourhood Resource Centres offering 24 hour a day care

OBSERVATION 17 could be an alternative. The establishment of neighbourhood "safe houses" could pro-

vide a haven for children when parents are unable to provide responsible care.

From the very cursory view of the dictation on the family files, it was not clear just what the agency did to help a family. Dictation tends to describe the problems exhibited by a family but not what the agency did about the problems. In too many instances, it was noted that the agency worker provided the family with the telephone number of an alcohol treatment program, an employment service or a day care program, but there was no indication that the worker then followed up to see if the family actually made the contact nor, except in a few notable instances, any evidence that the worker took concrete action to ensure that contact between family and service actually occurred.

It was noted that in a significant number of cases, the parents of the children were or had been wards of the agency themselves. This raises a myriad of questions. Is the agency acting responsibly when it apparently permits and supports a 14 year old living with her juvenile boy-

friend? What responsibility does the agency have for imparting information about birth control? Is it possible that in getting pregnant, the wards are actually making the most realistic plan for their future economic security? Do agencies have a greater, equal or lesser responsibility towards wards than do natural parents towards their children? What is it about the system that forces wards to recreate for their children the same set of circumstances that led them to become wards in the first place?

Again, we have to ask - could the natural parents have done any worse?

OBSERVATION 18

The file review did not reveal the steps the agencies take to decide whether temporary or permanent wardship should be sought through the courts or which staff persons were involved in making that decision. Also not evident, was the process for determining which children amongst the permanent wards were candidates for adoption placement.

In one agency functions related to the child are "departmentalized." The director of the adoption service indicated to the Chairman that children are "referred" to the adoption service by the various other departments. Only recently has there been initiated an internal review of some of the files of permanent wards which permits the adoption supervisor to participate in the decision making process of referring the child for possible adoption placement.

Again, the conflict between philosophy and practise confronts us. Agencies articulate the belief that "every child is adoptable" and it is only a problem of finding the right adoption home.

Yet the whole system refutes that premise. The information available to date indicates that adoption home identification is a "passive" process, that the Central Adoption Registry is a "passive" service.

One gets an image of children stacked in foster homes as used cars are stacked on corner lots just waiting for the right "buyer" to stroll by.

All the files reviewed involved native families. In the files of every Treaty Indian child, the band of origin was identified. For Metis and non-Treaty children, the home community of the parents was identified in all but a few cases even though the families may have been long term residents of the City of Winnipeg.

In very few of the files examined was there evidence that the agency made contact with the home community for a possible adoption resource. It was by far the exception, not the rule.

It is conceivable that parents, for whatever reason, may ask an agency not to contact relatives or the home community. If the lack of contact was because of the wishes of the parents, that fact should have been and was not noted on the files.

There were exceptions, of course. In a few cases, family and community resources had been exhausted prior to the child coming into the care of the agency. In a few cases, local resources were not appropriate on the basis of a child's medical or psychological needs. In a number of

cases the primary focus of the agency was to place children with siblings who had been previously placed. In at least one case, in the Chairman's opinion, the agency would have acted inappropriately if it had sought a placement resource anywhere in the province.

OBSERVATION 19

It should be pointed out that contact with the home community of native persons is not a difficult task. All reserves except Barren Lands, Tadoule Lake, Lac Brochet and Shamattawa can be contacted by direct private telephone line. Every reserve has a chief and an administrator and names and telephone numbers are readily available through the local Department of Indian and Northern Affairs. Every local community in Manitoba has a Mayor and names and telephone numbers are available through the provincial Municipal Affairs Department or Northern Affairs Department. The Manitoba Metis Federation has a province-wide organization and local contacts can be located through the provincial or regional Federation offices. It is not a difficult chore.

Treaty children, when adopted, maintain their Treaty rights. When the adoption is final, a copy of the order is sent to the Registrar under the Indian Act (Canada). This, again, is a passive registry. Information regarding Treaty rights is provided upon the request of the adoptive parents or upon the request of the adoptee who is beyond the age of majority.

Given the passivity of the Indian Act registry, agencies placing Treaty Indian children, in the Chairman's view, carry a

OBSERVATION 20

responsibility to ensure the adoptive parents are aware of the Treaty status of the child. Yet in no file did the Chairman locate any letter from the placing agency to the adoptive parents regarding the issue of Treaty rights. This is not a responsibility which can be transferred to the out of province placing agency and not an issue which should only be covered in discussion. It is too important a matter to be left to chance. The rights of the Treaty Indian child should be protected by every means possible. If communication was done by phone, the Chairman decries the process.

OBSERVATION 21

Similarly, the Chairman found no evidence of the agencies informing adoptive parents in writing of the cultural factors of which they should be aware in raising children of native descent whether Treaty, non-Treaty or Metis.

The Adoptive Parents

This report was not intended to examine the system from the viewpoint of the prospective adoptive parents. It is clear to the Chairman however that such a study is required.

General guidelines for handling applications for adoption are set down by the Child and Family Services Directorate but each agency can establish its own procedures as long as legal requirements are met.

The Chairman was deeply concerned at the cavalier attitude exhibited toward prospective adoptive parents in one case examined.

OBSERVATION 22

These prospective applicants were treated with less courtesy than one would expect would be given to applicants for a credit card.

The child was an infant of native ancestry. Described as healthy, this child was featured in a newspaper column as an adoptable child. From the file, it appeared that at least 12 Manitoba families offered their homes as potential adoption placements. As requested in the newspaper column, each letter contained details about the prospective adoptive family with a description of why they felt they could offer a secure and permanent placement for the child. The Chairman was impressed with the sincerity of these letters.

Each of these families received a form letter referring them to the agency serving the geographic area in which they resided. The form letter was badly typed and poorly set up and added notations were carelessly inserted. It seems incredible that people who have stepped forward to offer their home for a specific child should be dealt with so crudely and with such little courtesy and with such little regard.

However, the form letter format was not as offensive as its contents.

OBSERVATION 23

The form letter informed these prospective adoptive parents that the child had already been placed for adoption. The letters were dated prior to the time the child was introduced to an out of province family with whom the child was permanently placed!!

The Chairman has stated: "If one native child has been placed out of province where there was no need for it, then cultural genocide has occurred". Clearly this file demonstrates the validity of the Chairman's statement.

In the Chairman's opinion, Manitoba had the resources to meet the needs of all the children placed out of province in 1981. But of all the files reviewed, this particular case is the most blatant, dramatic example of the cultural genocide which has been apparently practised routinely by the child welfare system.

Post Legal Adoption Services

It is clear that in 1981 the child caring agencies of Manitoba saw their responsibilities to child and natural and

adoptive parents end at the point that the adoption became final. That may have been appropriate once - but it is an inappropriate stance now.

OBSERVATION 24

It is small wonder so little is known about what succeeds and what fails in the child welfare system. Lack of feedback reinforces failure.

In one case reviewed, the agency had worked with a family over many years. At first children were removed one by one, then in small groups and when the mother became, in the opinion of the agency and the court, unable to cope, all the remaining children were removed. The file note states - "As the mother no longer has any children with her and is just responsible for herself this file may now be closed."

Does that notation erase the mother's concern for her children? Does that notation erase the children's memory of each other and of their mother? Will the children at no time in the future want to locate their natural mother?

Natural parents surely have a right to know what happens to their children after they become wards of an agency. The natural parent should not be put in a position of having to beg an agency for information as basic as - is my child alive? Is my child well? Is my child happy?

It is the Chairman's opinion that agencies should maintain contact with adoptive parents and should regularly inform the natural parents of the children's progress. This can be done in a way that maintains confidentiality.

This procedure would accomplish a series of goals:

1. It would assure the adoptive parents of the agency's continued concern for them and for the child.
2. It would provide valuable feedback on the effectiveness of the agency's policies and practises related to adoption.
3. It would ease the trauma and sense of loss that all natural parents must

feel when their child is taken from them.

4. It would in no way interfere with the security and confidentiality of the child's placement if that is viewed to be in the interests of the child.

Not unlike other fields, child welfare is influenced by new trends. The current movement is towards "open adoptions". All this means is that natural parent and adoptive parent know each other and share concern for the child.

The legislation in Manitoba provides for "private adoptions" and "de facto adoptions". These essentially constitute "open adoptions".

Only in "selected adoptions" is secrecy of the identity of natural parents and adoptive parents maintained. This is called "confidentiality".

The need in every situation for this secrecy or confidentiality is seriously questioned on the basis of the information that has been secured in the process of this review.

Not only is the need for confidentiality not seen as necessary, it is beginning to appear that it is actively damaging to all parties concerned.

The issues of post legal adoption services will be discussed in greater length and detail in the final report.

Protocol for Return

OBSERVATION 25

Too many Manitoba children have been lost. Too many native children have been deprived of their cultural heritage. Efforts must be made to find the children.

The Director of Child Welfare should be mandated to contact every out of province child welfare agency through which Manitoba children have been placed. Those agencies should be made aware of the development of Indian child and family service agencies throughout the province.

The placing agencies should be asked (no demand can be made) to consider repatriation to Manitoba in the event that the adoption placement breaks down. The agency should also be asked to offer repat-

riation to Manitoba as an option to adoptive parents and adoptees if the child is experiencing difficulties which in any way might be related to problems of self-identity, culture conflict or behaviour patterns that might be related to the need to re-establish family, community or cultural contacts.

The Director should identify the Native Resource Coordinator as the contact person. Upon being notified of the possibility of a child's return to Manitoba, the Coordinator would take responsibility for establishing direct contact with the appropriate Indian child and family service agency or the appropriate native organization. The Coordinator would also be responsible for expediting the return of the child and for monitoring the situation, maintaining appropriate records and submitting periodic reports to the government.

CONCLUSIONS

On the basis of the review of the actual files of the native children placed out of province in 1981, the Chairman must conclude:

- that agencies did not make sufficient effort to locate members of extended family prior to placing children out of province,
- that agencies did not make sufficient effort to contact home communities to locate placement resources prior to placing children out of province,
- that the placement of children out of province was a regular, ongoing, routine practise of child caring agencies of the province,
- that the placement of children out of province was justified in only a few isolated cases,
- that the placement of children out of province was not justified on the basis of age, sibling group size or special problems of the children, and

- that the agencies failed to develop methods of caring for large sibling groups.

All parties have been at fault -- federal and provincial governments who failed to resolve their jurisdictional dispute for the care of Treaty Indian children; former Directors of Child Welfare who neglected to build accountability into the system; the child care agencies, both public and private, who failed to examine the results of their policies and practises and who failed to keep accurate statistical data; the native organizations who remained too silent, too long before demanding control of their children.

It is all too easy to strike out at the agencies directly providing child care services. The Chairman must bear some responsibility for putting agencies on the defensive. The press, with sometime excessive journalistic zeal, has maintained a steady barrage of criticism placing the agencies in a Catch 22 situation. If a child is apprehended, the agency is criticized. If a child is not apprehended, the

agency is criticized. It is no wonder staff morale is reported to be low. It is a wonder that agencies are able to hold staff at all.

It is time the child welfare system refocused on the purpose for which it was established. It is time the resources were made available to maintain children in their own homes. It is time research learnings were utilized to provide children with the security, stability and relationships they require to thrive. It is time that accountability was required of the child welfare system. It is time that more than lip service is given to the phrase "in the best interests of the child".